

Notice of Allowability	Application No.	Applicant(s)	
	09/132,521	NAGAI ET AL.	
	Examiner	Art Unit	
	Joseph T. Voitach	1632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to July 6, 2004.
2. ☒ The allowed claim(s) is/are 1-8, 11, 12, 14-18 and 20-23.
3. ☒ The drawings filed on April 15, 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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DETAILED ACTION

This application is an original application filed August 11, 1998.

Applicants' amendment filed July 6, 2003, has been received and entered. Claims 9, 10, 13 and 19 have been canceled. Claims 1, 6, 11, 12, 14, 15, and 21 have been amended. Claims 1-8, 11, 12, 14-18 and 20-23 are pending and currently under examination.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The claims have been amended to be consistent with claim changes Examiner indicated would be found allowable during the interview conducted March 19, 2004. The claims were rejected under 35 U.S.C. 103(a) as being unpatentable over Yu *et al.* and Bleul *et al.* in view of Hasan *et al.* (J. Gen. Vir. 78:2813-2820, 1997) and Czaplewski *et al.* Upon re-evaluation of the teachings of the references as a whole, Examiner agrees that there is insufficient motivation to specifically choose to combine the use of a Sendai virus for the expression of chemokines. While there was general motivation to use Sendai virus to express heterologous transgenes, in view of the numerous types of vectors known in the art there is no specific motivation to use them to express chemokines. Moreover, while it was demonstrated in the prior art that soluble forms of chemokines could be generated from using other types of vectors, the art does demonstrate that this is not the case in all context for all vectors suggesting that there is an empirical nature to the ability to successfully use any type of vector to express a chemokine. The

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claim amendments were proposed to more clearly and precisely set forth the claimed invention viewed as enabled and unobvious over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (571) 272-0739.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds, can be reached at (571) 272-0734.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group analyst Dianiece Jacobs whose telephone number is (571) 272-0532.

Joseph T. Woitach

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JOSEPH WOITACH
PATENT EXAMINER